

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Ophine Washington McMillian,)	
)	C/A No.: 3:07-0218-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Captain D's, Kelvin Horne, and)	
Jimmy L. Lightner,)	
)	
Defendants.)	
_____)	

Plaintiff Ophine Washington McMillian filed this action on January 23, 2007, alleging that she was subjected to sexual harassment and terminated in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et se.

This matter is before the court on Defendants' motion to dismiss and to compel arbitration, which motion was filed on April 20, 2007. By order filed May 1, 2007, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the applicable procedures and the possible consequences if he failed to respond adequately. Plaintiff filed no response to Defendants' motion. On June 12, 2007, Plaintiff was directed to inform the court within fifteen days as to whether she wished to continue to prosecute this action. Plaintiff was cautioned that if she failed to respond, the case could be dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). Plaintiff filed no response to the June 12, 2007 order. An amended order was filed on July 10, 2007, granting Plaintiff an additional fifteen days to notify the court as to whether she wished to continued to prosecution this action. Plaintiff filed no response to the July 10, 2007 order.

In accordance with 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On August 1, 2007, the Magistrate Judge filed a Report and Recommendation in which he recommended that the case be dismissed pursuant to Fed. R. Civ. P. 41(b). Plaintiff filed no objection to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. The case is dismissed with prejudice pursuant to Fed R. Civ. P. 41(b).

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

August 22, 2007
Columbia, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that she has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.